

**STATE OF ARKANSAS**  
**EXECUTIVE DEPARTMENT**  
**PROCLAMATION**

EO 05-04

TO ALL TO WHOM THESE PRESENTS COME — GREETINGS:

AN EXECUTIVE ORDER

WHEREAS, small businesses in the state excel in the areas of agriculture, construction, finance, insurance, manufacturing, tourism, technology, and transportation, as well as the many other fields of commerce in which they engage; and

WHEREAS, small businesses are crucial to the continued economic well-being of the state, in that they constitute the lion's share of businesses here and employ hundreds of thousands of workers; and

WHEREAS, the increasing number, complexity, and cost of government regulations impose a significant burden upon small businesses; and

WHEREAS, the regulation of businesses without regard to their size can be counterproductive for all involved: the populace, the agency, the industry, and the business itself; and

WHEREAS, agencies must take great pains to promulgate rules that fulfill the legislative objective and promote better health, safety, and well-being, but do not unnecessarily come at the expense of creating entry barriers, stifling entrepreneurial activity, or curbing innovation; and

WHEREAS, in the course of developing new regulations and amending existing ones, it is important that agencies seek input from the small business community;

NOW, THEREFORE, I, Mike Huckabee, acting under the authority vested in me as Governor of the State of Arkansas, do hereby order the following:

Section 1.     Definitions. As employed in this executive order, unless the context clearly indicates otherwise, the following terms are defined as follows:

(1) "Agency" shall mean each board, commission, department, office, or other authority of the government of the State of Arkansas, whether or not within, or subject to review by, another agency, except for the General Assembly and the Judiciary.

(2) "Rule" shall have the same definition as that in Ark. Code Ann. § 25-15-202(8).

(3) "Small business" shall be a for-profit enterprise consisting of no more than one hundred (100) full and/or part-time employees.

(4) "Director" means the director of the Arkansas Department of Economic Development, or his designee.

Section 2.     Applicability. Before submitting proposed rules for adoption, amendment, or repeal, the agency shall first determine whether the proposed rules affect small businesses. As part of its analysis, the agency shall examine whether a means exists to make the rules less costly for small businesses without compromising the objective of the rules. If the proposed rules affect small businesses, the agency, prior to undertaking the promulgation process outlined in Ark. Code Ann. § 25-15-204, must complete the steps outlined in Sections 3 through 5. However, this shall not apply to rules adopted on an emergency basis under § 25-15-204(b), are federally mandated, or that substantially codify existing state or federal law.

Section 3. Economic impact statement. The agency shall prepare an economic impact statement that sets forth the following: (1) the type or types of small businesses that will be directly affected by, bear the cost of, and/or directly benefit from the proposed rules; (2) a description of how small businesses will be adversely impacted; (3) a reasonable determination of the dollar amounts the proposed rules will cost small businesses in terms of fees, administrative penalties, reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance; (4) a reasonable determination of the dollar amounts of the costs to the agency of implementing the proposed rules, as well as the financial benefit to the agency of implementing same; (5) whether, and to what extent, alternative means exist for accomplishing the objectives of the proposed rules that might be less burdensome to small businesses, and why such alternatives are not being proposed; and (6) a comparison of the proposed rules with federal and state counterparts.

Section 4. Interaction with the Director. The agency shall submit the economic impact statement and the proposed rules to the Director. In turn, the Director shall provide detailed feedback in writing to the agency regarding whether, in the reasoned opinion of the Director, the agency has satisfactorily completed the economic impact statement and whether the agency has taken sufficient measures to balance the objectives of the proposed rules with the interests of the impacted small businesses. In performing these duties, the Director may elicit views and information from, and shall serve as the point of contact for, small business organizations and associations, state and federal agencies, and other parties who have comments, objections, and/or opinions concerning the proposed rules. Where appropriate, the Director shall convey these communications to the agency. In addition to commenting upon proposed rules, the Director may also review existing rules and make recommendations to agencies to change rules that may be having and unduly negative impact on small businesses.

Section 5. Agency response. Upon receiving the feedback from the Director pursuant to Section 4, the agency shall promptly undertake to consider the information. If the agency determines that no action shall be taken on the Director's feedback, the agency should respond in writing to the Director and explain its reasons for this determination. If the agency determines that amendment of a proposed rule, or adoption, amendment, or repeal of an existing rule, based upon the Director's feedback, is warranted, the agency should indicate this in its response. Thereafter, the agency may initiate the process set forth in § 25-15-204.

This Executive Order shall be effective upon its signing, and shall remain in full force and effect until amended or rescinded by further executive order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Arkansas to be affixed at the Capitol in Little Rock on the 1st day of February in the Year of our Lord, two thousand five.



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GOVERNOR MIKE HUCKABEE

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SECRETARY OF STATE CHARLIE DANIELS